

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

BRADLEY KEITH FOSTER  
TX-1325021-R and TX-1333039-T

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DOCKETED COMPLAINT NO. 09-047

**AGREED FINAL ORDER**

On this the 21<sup>st</sup> day of March, 2010, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Bradley Keith Foster, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter Bradley Keith Foster neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

**FINDINGS OF FACT**

1. Respondent, Bradley Keith Foster, is a state certified residential real estate appraiser, holds certification number TX-1325021-R and held authorization number TX-1333039-T, and has been certified or authorized by the Board during all times material to this complaint.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about July 27<sup>th</sup>, 2005, the Respondent appraised real property located at 3402 Sherwood Lane, Highland Village, Texas 75077 ("the property").
4. On or about November 5<sup>th</sup>, 2008, the Complainants, James and Joyce Binkley, filed a complaint with the Board based on allegations that the Respondent had produced an appraisal report that contained various deficiencies.
5. On or about November 5<sup>th</sup>, 2008, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2001, notified Respondent of the nature and accusations involved and Respondent was afforded

an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

6. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:

- a) Respondent failed to identify and report the site description adequately (by misrepresenting the property backed to land owned by the Corps of Engineers) and failed to consider and report any anticipated public and private improvements located on or off the site;
- b) Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply and demand, physical adaptability of the real estate and market area trends;
- c) Respondent failed to provide a brief summary of his basis and underlying rationale for his determination of the property's highest and best use;
- d) Respondent failed to employ recognized methods and techniques in his cost approach and failed to provide any support for his site value determination;
- e) Respondent failed to employ recognized methods and techniques correctly in his sales comparison approach and did not collect, verify, analyze and reconcile comparable sales data adequately; and,
- f) Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

7. Respondent made material misrepresentations and omitted material facts in his appraisal report as detailed above.

## **CONCLUSIONS OF LAW**

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451-1103.5535.

2. Respondent violated the following provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Standards: 1-2(e)(i) & 2-2(b)(iii); 1-4(f) & 2-2(b)(ix); 1-3(a) & 2-2(b)(ix); 1-3(b) & 2-2(b)(x); 1-4(b)(i) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-1(a); 1-1(b); 1-1(c); and, 2-1(a).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations in and omitting material facts from his appraisal report.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- b. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies; and
- c. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

**ALL CLASSES** required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of this agreement.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

**ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.** Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's certification is suspended on such a basis, the suspension shall remain in effect until such time as Respondent satisfies that portion of the Agreed Final Order which she has defaulted on and provides adequate documentation of same to the Board.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been

delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 30<sup>th</sup> day of March, 2010.

  
BRADLEY KEITH FOSTER


SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 30<sup>th</sup> day of \_\_\_\_\_, 2010, by BRADLEY KEITH FOSTER, to certify which, witness my hand and official seal.

Gretchen S. Henry  
Notary Public Signature

Gretchen S Henry  
Notary Public's Printed Name



Signed by the Commissioner this 21 day of May, 2010.

  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 21<sup>st</sup> day of May, 2010.

  
James B. Ratliff, Chairperson  
Texas Appraiser Licensing and Certification Board